



## HNBA Mock Trial Program Grant

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**Eligibility:** Affiliate current with their 2012 HNBA Affiliate Membership

**Criteria:** Program based on the HNBA Mock Trial Program. Event must be held in May 2012. HNBA requires affiliates to follow the enclosed recommendations and guidelines for its Mock Trial Program. One successful program will be chosen to receive the \$3,000 grant award.

**Requirements:** Complete the attached application

**Deadline:** Submit application by June 15<sup>th</sup> no later than 5:00 PM EST to Sarah Ramirez at [sramirez@hnba.com](mailto:sramirez@hnba.com).

**Award Announcement:** The HNBA will contact the Affiliate winner by July 20<sup>th</sup>.



## HNBA Mock Trial Program Grant Application

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Nominator:

Affiliate Name:

Contact Information for Nominator and Affiliate:

- 1) Provide a program description, including chair, organizer, etc.\*
- 2) Was this program based on the HNBA Mock Trial Program? Please provide feedback on how well the program worked for you and your group, whether your group did anything different, whether you would suggest any changes be made to the Program, etc.\*
- 3) Was this the first time your Affiliate hosted a mock trial program like this? If no, please describe prior programs, differences, and any suggested changes for HNBA's program.\*
- 4) State the goal your Affiliate sought to accomplish by hosting this program?\*
- 5) Was your goal accomplished and if so, how?\*
- 6) How many people participated/attended this program?
- 7) Did you collect attendance feedback? If yes, please provide copies or a summary of the feedback.\*

\*Descriptions not to exceed 200 words or less.



**GUIDELINES**  
**FOR THE**  
**2012 HNBA MOCK TRIAL PROGRAM**

## **I. INTRODUCTION**

The HNBA is excited about its 2nd HNBA Mock Trial Program. The goal is to provide an opportunity, in the community, for young Latino high school students to get a glimpse of the practice of law, while meeting successful legal practitioners who look like them and have similar backgrounds.

## **II. GETTING STARTED**

As discussed at the HNBA Board of Governors meeting, the program has been standardized to maintain consistency and decrease the amount of work that needs to be done by the HNBA Affiliates and volunteers.

The program is very flexible, but for a full program with students in all roles there should be between 9-13 attorneys. Since the focus is to allow plenty of interaction so students can meet and work with Latino professionals, as opposed to skill building, more attorneys can easily be integrated into the program to give more one-on-one support.

This year, the best HNBA affiliate mock trial program will be recognized with a \$3,000 grant.

Hopefully, you have already begun some of the first steps:

1. Identify a location (preferably a high school in the community with a law magnet program so it has a court room or a community high school with a large enough classroom to accommodate a trial set up—see drawing on page 4 of attachment);
2. Select a Saturday in May 2012 to schedule the mock trial program (recommended hours are 10:30 a.m. to 2:30 p.m.);
3. Create small marketing plan to identify contacts to help you get the word out to your targeted students;
4. Enlist attorneys who would like to join the HNBA on a Saturday to work with students to prepare opening and closings statements, direct and cross examinations, or judge in a wonderful fulfilling mock trial program; and
5. Make arrangements for lunch and drinks.

## **III. THE MOCK TRIAL MECHANICS AND PROCESS**

### **A. THE MECHANICS OF THE MOCK TRIAL PROGRAM**

1. Perform a short (5-10 minute) presentation to the students about the purpose of trials and the procedure involved.

2. Distribute pages 7-11 of the mock trial materials (facts, statement of law, and witness statements) to the students.

a. The facts, witness statements and basic law involved should be discussed with the entire class.

b. Depending on the time allotted, volunteers and Teachers may modify the fact patterns and witness statements.

c. Try to match the complexities of the mock trial to the skills and sophistication of your students. (Remember that the aim of this mock trial program is not to teach real life court procedure, but rather to create a learning experience for students and an opportunity to meet potential role models.)

3. Depending on the number of students, students should be assigned as one per task per side (opening, closing, witness, etc.). For less students, multiple tasks can be combined. The tasks are as follows:

a. Prosecution Attorneys

i. Opening Argument (1)

ii. Closing Argument (1)

iii. Direct for each of the State's witnesses (5)

iv. Cross examination of each of the Defense's witnesses (4)

b. Defense Attorneys

i. Opening Argument (1)

ii. Closing Argument (1)

iii. Direct for each of the Defense's witnesses (4)

iv. Cross examination of each of the State's witnesses (5)

c. Witnesses -- can be played by students or attorneys, depending on turnout.

d. Jury - 6-15 selected jurors should not be involved in preparations.

4. Task Preparation -- after assignments are made, attorneys should split up to meet with the students individually to help them prepare their openings, closings and witness examinations. The actual witnesses should attend prep sections with those students who will be doing their direct examination (not cross examination).

## B. The Mock Trial Process

### 1. Opening Statements:

i. In the opening statement for the defense in the attached case, for example, the attorneys might want to cover the following points:

#### 2. Defense

- The group of people are being charged with disorderly conduct for activities which are protected under the First and Fourteenth Amendments to the United States Constitution.
- The defense witnesses will testify that the defendants at all times conducted themselves with the utmost restraint, even in the face of severe verbal harassment
- The defendants were themselves pelted with objects
- The defendants did not, at no time whatsoever, violate the text of the ordinance
- This opening statement would then continue to explain other evidence to be presented in support of the defendants

#### 3. Prosecution

- The group of people are not being charged with disorderly conduct for activities which are protected under the First and Fourteenth Amendments to the United States Constitution.
- They are being charged with a crime after not dispersing once the protest had escalated to a degree where it became dangerous to the public at large.
- The protestors themselves threw rocks and soda cans and injured at least one innocent bystander
- This opening statement would then continue to explain other evidence to be presented in support of the prosecution

### 4. Examining the Witnesses:

A. Students should develop questions to ask their own witnesses and rehearse their examination with these witnesses.

B. Witnesses should become thoroughly familiar with their witness statements so that their testimony will not be inconsistent with their witness statements.

C. Explain to the students the concept of "leading questions" and that on direct examination, questions should not be leading. Instead, leading questions may be used in cross-examining a witness in order to impeach the witnesses' credibility in the testimony.

D. The prosecutor could begin with a line of questions such as:

- Would you please state your name and address?

- Please tell us where you were on the day/night of
- Can you tell us what happened there on that day/night?

E. While some attorney-witness groups are constructing the questions and testimony for direct examination, other attorneys should be thinking about how they will cross-examine the witnesses for the other side.

F. Explain to the students that the purpose of cross-examination is to make the other side's witnesses seem less believable in the eyes of those determining the facts of the case.

G. This is also an opportunity to discuss trial strategy with the students. For example, explain that sometimes it may be wise to ask relatively few questions on cross-examination so that the witness will not have an opportunity to reemphasize strong points to the jury.

1. In cross-examining defendants' witnesses, the prosecution might try to suggest to the jury their inability to see and hear clearly the events they have testified to in favor of the defendants.

2. The following questions may be used by either side:

- On the night in question, had it not become dark by the time the counter-demonstrators began to assemble?
- Was there not substantial confusion, tension, and noise with over 250 counter-demonstrators, 85 demonstrators and 100 law enforcement officers confronting each other?
- Were you not frightened by these developments and, in any event, unable to see and hear everything that was going on?
- Considering the darkness, confusion, tension, and other factors contributing to this chaotic scene in the Chancellor's neighborhood, are you absolutely certain of what you have testified to seeing and hearing that evening?

### 3. Closing Arguments

A. Explain that closing arguments are rather challenging since they must be flexible presentations, reviewing not only the evidence for one's side but also underscoring weaknesses and inconsistencies in the other side's case which arise out of the trial proceedings.

B. With this in mind, closing statement in the criminal case might include some of the following language:

- Ladies and gentlemen of the jury, you have listened patiently and carefully to the evidence which each side has presented in this trial. You have heard testimony which [did not prove/proved] beyond a

reasonable doubt that on the night in question the demonstrators did knowingly and willingly violate the ordinance in question.

- Despite the fact that the defendants received extensive protection from the police for more than four hours under severely difficult circumstances, they repeatedly refused to leave under police protection when the already tense situation was about to erupt into a full-scale riot. There are limits to free speech and the defendants in this case clearly exceeded those limits. Their suggestion that the police should have arrested more than 250 persons rather than peacefully escorting the 80 or so demonstrators from the neighborhood is a flimsy argument at best.
- Despite the fact that the defendants received extensive protection from the police for more than four hours under severely difficult circumstances, the police was underprepared for the aggressiveness from the athlete counter demonstrators. Given that the defendants had a permit, did not initiate the throwing of objects, and were similar in numbers to the athlete counter demonstrators, the police should have targeted their efforts in restraining the student athletes and not on violating the defendants' constitutional rights. To argue that it was easier to arrest the demonstrators rather than the athlete counterdemonstrators is an unfounded argument, designed to trick the jury into believing stereotypes about protestors and athletes.

#### **IV. MORE INFORMATION**

For more information, there are three attachments:

1. SIMPLIFIED RULES OF EVIDENCE AND PROCEDURE FOR MOCK TRIAL\*;
2. The General Mock Trial Informational Packet; and
3. HNBA Law Day Grant Criteria and Application.

**Have fun and don't forget to submit your application!!!**

#### **V. STATEMENT OF FACTS**

City Name v. Name of Protest Leader

[City Name] University is one of the best known Universities in the State of [ ]

because of its excellence in collegiate sports and impeccable academic reputation. In the last five years, the University has won three national football championships, five men's and women's basketball championships and two baseball championships. Additionally, the University has been ranked as the #1 university in the country by a national publication for the tenth year in a row. Support for the University's academic and sports program comes from the University's Alumni Fund, which has suffered significant losses in recent years due to economic downturn and reduced alumni support. This reduction in funding in turn has impacted the academic programs the most as the Chancellor, a former student athlete himself, has chosen to reduce funding for academics in favor of athletics. This has resulted in a reduction in classes,

skyrocketing tuition increases, and decreases in student financial aid for all non-sports scholarship students.

As a result of increased dissatisfaction with these reductions, a student leader from the [City Name] University decided to organize a student-run protest. The group believed that a large portion of the University's budget that was allocated to the University's sports teams could be reallocated to hiring more teachers, reducing overall tuition and increasing the number of need-based scholarships available to students. Because the Chancellor of the [City Name] University, had the power to make these types of budgetary decisions, the student organizers designed a demonstration with the aim to force the Chancellor to act. While the majority of students at [City Name] University support the protest, there is a significant and very vocal opposition comprised mostly of student athletes who are the beneficiaries of the pro-athletic stance by the Chancellor.

Last Friday afternoon, about 80 to 85 protestors began a march from the Student Union to the Chancellors home, which about five miles away and located next to the housing reserved exclusively for student athletes. The protesters were accompanied by a Police Lieutenant, four police sergeants and about 40 police officers, in addition to their own attorney and an assistant city counsel. They arrived at the Chancellor's home at 8:00 p.m. They immediately began to march around his block, chanting phrases such as: "Hey, hey, ho, ho, the Chancellor must go!;" "More classes and lower tuition!;" and "We demand more student aid." They carried signs which read, "[Mayor Name] Must Go-Now." They also sang civil rights songs such as "We Shall Overcome" and "We Shall Not Be Moved."

Before and during the march, protest leader [Protest Leader Name] instructed everyone to keep marching, but not to "answer anyone back." He also told them: "Don't worry about- anything that is going to be said to you. Just keep marching peacefully. If anyone hits you or anything, try to remember what they look like, but above all, do not hit them back or respond. Keep the lines -straight and keep them tight."

As the marchers continued around the block, some student athletes began coming out of their homes. Some of them placed lawn sprinklers onto the sidewalk, forcing the demonstrators to walk into the streets. Others yelled out of their windows and doorway. By 9:00 p.m., 10 to 15 pro-Chancellor spectators had formed a line and were marching ahead of the demonstrators, and by 10:20 p.m., a group of almost 250 pro-Chancellor supporters had gathered. There were shouting and threats, such as: "Get the hell out of here;" and "'Get the hell out of here or we'll break your head open." Rocks, soda cans and eggs were thrown at the marchers from the pro-Chancellor crowd, and there were numerous attempts by members of the crowd to break out from behind police lines which were protecting the demonstrators.

Despite [Protest Leader]'s instructions, there was evidence of some demonstrators shouted back to the counter-demonstrators, and there were reports of several fights and items thrown back by the marchers. About 10:30 p.m., Police Lieutenant Graciela Olivas told [Protest Leader] that the situation was dangerous and becoming riotous. She asked [Protest Leader] to cooperate and lead the marchers out of the area, offering a police escort for any who wished to leave. Thirteen of the marchers did so, but the remaining demonstrators refused. After a number of unsuccessful attempts to persuade them to leave, the police arrested the demonstrators and took them away in police vans.

Each of the arrested protestors were charged with violating a [City Name]'s ordinance banning disorderly conduct, [City Name] Public Code Section 1202.4.

## **VI. STATEMENT OF LAW**

[City Name] Public Code Section 1202.4 reads:

All persons who shall make, aid, countenance, or assist in making any improper noise, riot, disturbance, breach of peace, or diversion tending to a breach of the peace, within the limits of the city; and all persons who shall collect in bodies or crowds for unlawful purposes to the annoyance or disturbance of other persons... shall be deemed guilty of disorderly conduct, and upon conviction shall be fined not less than \$1.00 or more than \$200.00 for each offense.

The First Amendment to the United States Constitution reads:

Congress shall make no Law...abridging the freedom of speech ... or the right of the people peacefully to assemble.

## **VII. WITNESS STATEMENTS**

A. For the Prosecution -

1. Police Lieutenant On The Scene, Graciela Olivas

From the outset, we knew there would be trouble. That is why we had about 40 police officers as well as attorneys on the scene. Generally speaking, the demonstrators were peaceful. However, by about 9:15 p.m., the situation was getting pretty tense. I felt that the demonstrators had more than ample time to voice their protest. The crowd was getting larger, darkness had descended, and there was only so much that my officers could do to keep the situation under control. When the demonstrators repeatedly refused to be escorted out of the area, and the number of counter-protestors outnumbered the protestors, I had no choice but to arrest the protestors. By 10:30, it was clear to me that the City's disorderly conduct code had been breached because there was so much commotion, noise, and fighting. However, I will admit that I also ordered the arrests for the protestors' own safety.

2. Student Athlete Witness,

I live in the student athlete housing on the same block as the Chancellor. Look, I get why they are angry, but there are better ways of demonstrating your point of view than protesting — like for example written or Facebook petitions. When the scores of demonstrators started marching and chanting, not to mention the many police with them, it was like an invasion. Naturally, there was no way for me to relax with all this going on, and with the high tension in the school over this topic I was really in fear for my personal safety. I could see what was going on from my windows and it looked like everyone was yelling at each other, there was some pushing and shoving, and all sorts of chaos. The police were doing their best to

keep the two groups separated, and I was sure glad when the police finally rounded-up the demonstrators and took them away. Some ugly things could have happened if they hadn't acted as they did.

3. Student Witness,

I was leaving the student athlete housing the day of the rally after when an altercation started by the protestors broke out. When I walked out of the student athlete housing, I heard a lot of yelling by the protestors. At first, I did not think they were hurling their insults at me since I am not a student athlete. After all, the only reason I was at the student athlete housing was because I had just finished my tutoring with a basketball player. However, when the protestors yelled "aim for the basketball jock" I realized that I was in trouble because I was wearing a [City Name] University Basketball t-shirt (I was given the t-shirt by the student that I tutor). Almost immediately after I heard the yelling I was hit in the head with something very hard. I blacked out for a few seconds and next thing I know I have a police officer pulling me away from the protest asking me how badly I was hurt. A friend later told me that he heard I was hit in the head with a soda can or a rock. While I agree in principle with the protestors, the mood of the protest was quickly turning violent and things were rapidly getting out of hand for them.

4. Police Lieutenant for Public Permits Unit,

For twenty three years, I have worked in the City Police Department's Public Permits Unit. I have been the Unit Supervisor for the past ten years. Our Unit receives, reviews, and approves all sorts of permit applications, including march permits. I recall reviewing the permit application in this case. I was already aware of the very public and heated controversy when the permit application was submitted. This is why I approved the permit with a recommendation of having 100 officers present. In order to protect the safety of all protestors, any counter-protestors, and maintain traffic, it is Department policy to recommend one officer for every two anticipated protestors.

5. Chancellor,

I am huge advocate of the First Amendment, but these protestors were utterly unruly. They came to start fights and chaos. The noise and commotion was unbearable. I was so disturbed that I could not watch American Idol, my favorite TV show. Yes, I decided to steer more University funding to our sports programs, but that had nothing to do with my own personal views or the fact that I used to be a student athlete. I am not really sure and I don't see how it is relevant to anything, but I think my secretary did give me a copy of the flyer publicizing the march across campus in advance.

B. For the Defense -

1. March Permit Witness,

I was one of the organizers of the student March. From the beginning, this was a very peaceful group. Early on in the organizing process, I volunteered to be in charge of obtaining the appropriate march permit. I contacted the City and was referred to the Police Department Public Permits Unit. I obtained the form, filled it out as best I could, and submitted it. Maybe it was wishful thinking, but on the form, I indicated that there would be between 175-200 protestors.

The other major responsibility I had was publicizing the event. I personally designed a flyer to advertise the march to students, faculty, and others. I went to Kinkos and made 1000 copies of the flyers. All of these flyers were distributed throughout the campus for the entire week before the march. I also led a handful of other students who made huge banners and signs. The banners and signs were posted at most public spaces throughout the campus. This march was no secret. In fact, I personally made certain that everybody knew about it.

On the day of the March, I clearly recall all of the intimidation led by the Chancellor's supporters. Despite the sprinklers, profanities, rocks and eggs, our March was peaceful. Any commotion was not caused by us.

2. Protest leader,

Throughout the march, the demonstrators had been peaceful and orderly. Before and repeatedly during the march, I instructed everyone: "Don't worry about anything that is going to be said to you. Just keep marching peacefully. If anyone hits you or anything, try to remember what they look like, but above all, do not hit them back or respond. Keep the lines - straight and keep them tight." We were very careful to avoid confrontation, but we wanted to voice our opinions as clearly and effectively as possible.

It was the Chancellor's supporters who were violating the ordinance. The local student athletes tried to break up our march by flooding the sidewalks with sprinklers. They were shouting profanities, hurling rocks and eggs, and trying to break through police lines--they're the ones who should have been arrested. It was our right to refuse the police escort...we had done nothing wrong.

3. Additional Demonstrator Witness,

Sure I was scared. That's why I left with the police escorts. It was like walking into a lion's den. But we believed that the Chancellor was not being fair and that he needed to hear that we were not going to sit idly by and let him get away with his favoritism. At no time did I see or hear any of us egging on the Chancellor's supporters. [Protest Leader] had told us to turn the other cheek and we were doing that. Yes, the police protected us, but that's what they're supposed to do. We were just exercising our freedom of speech. It was the others who were unruly and causing trouble.

4. Chancellor's Secretary,

I am only here because I was required to come by a subpoena. I was not at the march or anywhere near it. Yes, I knew about the march. I remember going out for lunch one day and being handed a flyer by someone in the Student Union. I usually look at the flyers being handed out to see what the different student groups are up to. I do remember being shocked to learn that there was going to be a march to the Chancellor's house. I think the flyer gave the exact date and time. I believe I gave the flyer to my boss when I returned from lunch. I don't remember if he said anything, but I recall him making a face.

## **VIII. JUDGE'S FINAL INSTRUCTIONS TO THE JURY**

The questions posed by this case are by no means simple. On the one hand, we have the precious right to freedom of speech, which is guaranteed by the U.S. Constitution because it is an absolute necessity in our open and democratic form of government. On the other hand, we have the need to maintain public order and ensure the safety and general welfare of our citizens. Your difficult task, members of the jury, will be to determine whether the defendants did in fact violate the ordinance in question beyond a reasonable doubt.

I want to emphasize that under our law, the police do not have the right to stop a peaceful demonstration merely because a hostile crowd may not agree with the views of the demonstrators. However, if you decide that the police made all reasonable efforts to control the situation, then an arrest for an otherwise lawful demonstration may be made. You have heard the arguments of both the prosecution and defense in this case. You may now adjourn to consider the arguments presented and return to the court once a verdict is reached.